

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TALELE MIKA,

Plaintiff,

v.

Civ. No. 20-346 MV/KK

MICHAEL BRISCO,
NEW MEXICO CORRECTIONS DEPARTMENT,
ALISHA TAFOYA LUCERO,
MICHAEL NAPIER, ERIC CARTER,
RAY CEBALLOS, CLASSIFICATION OFFICER
JOHN OR JANE DOE, AND
INTAKE OFFICER JOHN OR JANE DOE,

Defendants.

ORDER SETTING RULE 16 SETTLEMENT CONFERENCE

In an effort to facilitate a final disposition of this case, a mandatory settlement conference will be conducted in accordance with Federal Rule of Civil Procedure 16(a)(5) on **Thursday, August 31, 2023, at 9:30 a.m. at the Pete V. Domenici United States Courthouse, 440 Hondo Courtroom, Fourth Floor, 333 Lomas Boulevard, Northwest, Albuquerque, New Mexico**. Counsel and parties are to go directly to the Hondo Courtroom.¹

The Court has set aside three (3) hours for this settlement conference. However, the Court expects the participants to keep their schedules open the entire day of the conference so that they are available to work through the noon hour and into the evening, if the Court deems it necessary.

Motions to reschedule the settlement conference must be filed no later than August 10, 2023.

¹ Counsel are allowed to have cell phones, including a cell phone with a camera. Clients and representatives are not allowed to have a cell phone, or any kind of recording device.

Motions to reschedule the settlement conference filed after this date may be considered untimely in the Court's discretion.

Individually named parties must attend the settlement conference, unless excused by the Court upon written request. Excused parties must be available by telephone throughout the day of the conference. In the case of institutional parties, a designated representative, other than counsel of record, **with full and final settlement authority² must attend the settlement conference.** This requirement cannot be satisfied by hiring a local representative. Lead counsel who will try the case must also attend the settlement conference. Those attending the settlement conference must treat as confidential the information discussed, positions taken, and offers made by other participants in preparation for and during the conference.³

No later than **July 27, 2023**, Plaintiff shall serve on Defendants a written settlement demand. **Plaintiff should not file his confidential settlement demand on the docket in this case.**

No later than **August 10, 2023**, Defendants shall serve on Plaintiff a written counteroffer. If a release is contemplated, defense counsel shall include a proposed form of release with its counteroffer.

The parties' written offer and counteroffer must be made in a good-faith effort to resolve the litigation. If the parties have previously engaged in settlement negotiations, Plaintiff's written demand should generally be lower than Plaintiff's most recent demand, and Defendants'

² A representative with full and final settlement authority should have the power to make decisions up to the amount of the opposing party's most recent offer or counter-offer, although the Court does not expect the representative to be prepared to pay that amount. If there is no single representative who can be vested with full and final settlement authority, or if there is any other impediment to such a representative attending the settlement conference, counsel is to include this information, with a brief explanation of the impediment at issue, in its confidential position statement to the Court.

³ This does not prohibit disclosures stipulated to by the parties, necessary in proceedings to determine the existence of a binding settlement agreement, or as otherwise required by law.

counteroffer should generally be higher than Defendants' most recent counteroffer. If settlement is not achieved before the settlement conference, the parties must be prepared to engage in further good-faith negotiations and exchange additional offers and counteroffers at the settlement conference.

No later than **August 17, 2023**, each party must submit to the Judge Khalsa, in confidence, a concise position statement (typically no more than 10 pages) containing a brief summary of any additional facts and statements regarding its position on liability not reflected in material already filed on the Court's docket in this matter; an analysis of the evidentiary and legal strengths and weaknesses of its case; an outline or itemization of damages or other relief requested; and the status of settlement negotiations to date. The confidential position statements must also include the names of the individuals who will be attending the conference and in what capacity. If a party has multiple insurance carriers providing potential primary and/or excess coverage in the case, that party's counsel must also address each carrier's anticipated role, if any, in settlement negotiations. Parties are to attach their most recent written settlement demand or counteroffer, as well as any position papers they have sent to the opposing side, as addenda to their position statements to the Court. Position statements should be submitted to the Court by facsimile at **(505) 348-2345** or by e-mail at khalsaproposedtext@nmd.uscourts.gov, and **they should not be filed on the docket in this case.**

The Court will conduct a telephonic pre-settlement conference on **August 24, 2023, at 1:30 p.m.** Defense counsel and Plaintiff are to call Judge Khalsa's AT&T conference line at **(877) 848-7030 and enter the code 7324132** to connect to the proceedings. Prior to the pre-settlement conference, counsel for Defendants is directed to analyze and identify impediments to settlement, confer with their clients and prepare them for the mediation, and assess any additional information

or matters that need to be addressed to the Court before the mediation. The Court may also contact counsel and Plaintiff *ex parte* after receipt of the parties' position statements and before the settlement conference to discuss the settlement conference.

Please direct any inquiries to (505) 348-2340.

IT IS THEREFORE ORDERED as follows:

Plaintiff's demand letter due to Defendants: **July 27, 2023**

Defendants' counteroffer letter due to Plaintiff: **August 10, 2023**

Parties' confidential position statements due to the Court: **August 17, 2023**

Pre-settlement conference: **August 24, 2023, at 1:30 p.m.**

Settlement conference: **August 31, 2023, at 9:30 a.m.**

IT IS SO ORDERED.



KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE